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by the Executive Secretary, who shall determine whether the proposed change is a minor one subject to this paragraph (c) instead of paragraph (b) of this section (see § 400.38). Such applications or requests include those for minor revisions of general-purpose zone or subzone boundaries based on immediate need, as well as for designation as a subzone of all or part of an existing zone site(s) (or site(s) that qualifies for usage-driven status), where warranted by the circumstances and so long as the subzone activity remains subject to the activation limit (see § 400.2(b)) for the zone in question.

(d) *Applications for other revisions to authority.* Applications or requests for other revisions to authority, such as for Board action to establish or modify an activation limit for a zone, modification of a restriction or reissuance of a grant of authority, shall be submitted in letter form with information and documentation necessary for analysis, as determined by the Executive Secretary. If the change involves the removal or significant modification of a restriction included by the Board in its approval of authority or the reissuance of a grant of authority, the review procedures of §§ 400.31–400.34 and 400.36 shall be followed, where relevant. If not, the procedure set forth in § 400.38 shall generally apply (although the Executive Secretary may elect to follow the procedures of §§ 400.31–400.34 and 400.36 when warranted).

§ 400.25 Application for subzone designation.

In addition to the requirements of §§ 400.21(d)(1)(i) and (ii) pertaining to legal authority, § 400.21(d)(2)(vii) pertaining to environmental aspects of the proposal, and §§ 400.21(d)(3)(i) and (iii) pertaining to operation, a grantee's application for subzone designation shall contain the following information:

- (a) The name of the operator/user for which subzone designation is sought;
- (b) The nature of the activity at the proposed subzone;
- (c) The address(es) and physical size (acreage or square feet) of the proposed subzone location(s); and
- (d) One or more maps conforming to the requirements of section § 400.21(d)(5)(ii). For any production ac-

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tivity to be conducted at a proposed subzone, the separate requirements of § 400.14(a) must be met.

EFFECTIVE DATE NOTE: At 77 FR 12139, Feb. 28, 2012, § 400.25 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 400.26 Criteria for evaluation of applications for expansions, subzones or other modifications of zones.

The Board shall consider the following factors in determining whether to approve an application pertaining to a zone:

- (a) The need for zone services in the port of entry area, taking into account existing as well as projected international trade-related activities and employment impact;
- (b) The suitability of each proposed site and its facilities based on the plans presented for the site, including existing and planned buildings, zone-related activities, and the timeframe for development of the site;
- (c) The specific need and justification for each proposed site, taking into account existing sites and/or other proposed sites;
- (d) The extent of state and local government support, as indicated by the compatibility of the zone project with the community's master plan or stated goals for economic development and the views of state and local public officials involved in economic development. Such officials shall avoid commitments that anticipate the outcome of Board decisions;
- (e) The views of persons likely to be materially affected by proposed zone activity; and
- (f) If the application involves production activity, the criteria in § 400.27.

§ 400.27 Criteria applicable to evaluation of applications for production authority.

The Board shall apply the criteria set forth in this section in determining whether to approve an application for authority to conduct production activity pursuant to § 400.23. The Board's evaluation shall take into account such factors as market conditions, price sensitivity, degree and nature of foreign competition, intra-industry and

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intra-firm trade, effect on exports and imports, ability to conduct the proposed activity outside the United States with the same U.S. tariff impact, analyses conducted in connection with prior Board actions, and net effect on U.S. employment and the U.S. economy:

(a) *Threshold factors.* It is the policy of the Board to authorize zone activity only when it is consistent with public policy and, in regard to activity involving foreign merchandise subject to quotas or inverted tariffs, when zone procedures are not the sole determining cause of imports. Thus, without undertaking a review of the economic factors enumerated in § 400.27(b), the Board shall deny or restrict authority for proposed or ongoing activity if it determines that:

(1) The activity is inconsistent with U.S. trade and tariff law, or policy which has been formally adopted by the Executive branch;

(2) Board approval of the activity under review would seriously prejudice U.S. tariff and trade negotiations or other initiatives; or

(3) The activity involves items subject to quantitative import controls or inverted tariffs, and the use of zone procedures would be the direct and sole cause of imports that, but for such procedures, would not likely otherwise have occurred, taking into account imports both as individual items and as components of imported products.

(b) *Economic factors.* After its review of threshold factors, if there is a basis for further consideration of the application, the Board shall consider the following factors in determining the net economic effect of the proposed activity:

- (1) Overall employment impact;
- (2) Exports and re-exports;
- (3) Retention or creation of value-added activity;
- (4) Extent of value-added activity;
- (5) Overall effect on import levels of relevant products;
- (6) Extent and nature of foreign competition in relevant products;
- (7) Impact on related domestic industry, taking into account market conditions; and
- (8) Other relevant information relating to the public interest and net economic

impact considerations, including technology transfers and investment effects.

(c) The significant public benefit(s) that would result from the production activity, taking into account the factors in paragraphs (a) and (b) of this section.

(d) *Contributory effect.* In assessing the significance of the economic effect of the proposed zone activity as part of the consideration of economic factors, and considering whether it would result in a significant public benefit(s), the Board may consider the contributory effect zone savings have as an incremental part of cost-effectiveness programs adopted by companies to improve their international competitiveness.

§ 400.28 Burden of proof.

(a) *In general.* An applicant must demonstrate to the Board that its application meets the criteria set forth in these regulations. Applications for production-related authority shall contain evidence regarding the positive economic effect(s) and significant public benefit(s) that would result from the proposed activity and may submit evidence and comments concerning policy considerations.

(b) *Comments on applications.* Comments submitted regarding applications should provide information that is probative and substantial in addressing the matter at issue relative to the nature of the proceeding, including any evidence of the projected direct impact of the proposed authority.

(c) *Requests for extensions of comment periods.* Requests for extensions of comment periods shall include a description of the potential impact of the proposed authority and the specific actions or steps for which additional time is necessary.

(d) *Responses to comments on applications.* Submissions in response to comments received during the public comment period or pursuant to § 400.33(e)(1) or § 400.34(a)(5)(iv)(A) should contain evidence that is probative and substantial in addressing the matter at issue.

§ 400.29 Application fees.

(a) *In general.* This section sets forth a uniform system of charges in the